

EXHIBIT

19

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE: NATIONAL PRESCRIPTION *
OPIATE LITIGATION *
5 * MDL NO. 2804
THIS DOCUMENT RELATES TO * CASE NO. 1:17-MD-2804
6 *
TRACK NINE *

7 *****

8 ORAL AND VIDEOTAPED DEPOSITION OF
9 DONALD BOWMAN
10 JULY 18, 2023

11 *****

12 HIGHLY CONFIDENTIAL - SUBJECT TO FUTHER

13 CONFIDENTIALITY REVIEW

14
15 DEPOSITION of DONALD BOWMAN, produced
16 as a witness at the instance of the Plaintiffs, and
17 duly sworn, was taken in the above-styled and
18 numbered cause on the 18th day of July, 2023, from
19 11:05 a.m. to 12:54 p.m., before Christy R. Sievert,
20 CSR, RPR, in and for the State of Texas, reported by
21 machine shorthand, at the offices of Greenberg
22 Traurig, 2200 Ross Avenue, suite 5200, Dallas,
23 Texas, pursuant to the Federal Rules of Civil
24 Procedure and the provisions stated on the record or
25 attached hereto.

1 A P P E A R A N C E S

2

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13 ALSO PRESENT:

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CHRIS FOX (Remote)
15 JANICE LEE (Remote)
GINA VELDMAN (Remote)
16

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1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: We are now on the
3 record. My name is Colin Coughenour. I'm a
4 videographer for Golkow Litigation Services.

5 Today's date is July 18, 2023. The
6 time is 11:05 a.m.

7 This deposition is being held in
8 Dallas, Texas in the matter of Opioid Litigation
9 Track 9.

10 The deponent is Donald Bowman.

11 Would counsel please identify
12 themselves for the stenographic record.

13 MR. LICHTER: Good morning. Jay
14 Lichter for plaintiff, Tarrant County, Texas.

15 MR. WAHBY: Peter Wahby of Greenberg
16 Traurig for the Albertsons defendants.

17 THE VIDEOGRAPHER: The court reporter
18 is Christy Sievert, who will now swear in the
19 witness.

20 DONALD BOWMAN,
21 having been first duly sworn,
22 testified as follows:

23 EXAMINATION

24 BY MR. LICHTER:

25 Q. Good morning, Mr. Bowman.

1 A. Good morning.

2 Q. Could you please state and spell your name
3 for the record?

4 A. Donald Bowman, D-o-n-a-l-d B-o-w-m-a-n.

5 Q. Okay. And just to go over some basic
6 ground rules of depositions, first, have you had
7 your deposition taken before?

8 A. No.

9 Q. Okay. So I guess I am going to be asking
10 you a series of questions. While I'm doing that,
11 your counsel sitting to your right may object from
12 time to time. Just so you know, even if your
13 counsel does object, you are obligated to still
14 respond and answer the question unless your counsel
15 specifically directs you not to answer. Do you
16 understand that?

17 A. Yes.

18 Q. Okay. We have a court reporter here taking
19 down everything we're saying. So it's important
20 that we talk slowly so she can do that, and also
21 that we don't talk over each other. Do you
22 understand that?

23 A. Yes.

24 Q. Okay. And a lot of the questions I ask may
25 call for a "yes" or "no" answer. Just so you know,

1 responses like "uh-huh" or "huh-uh" are difficult
2 for the reporter to take down. So to the best you
3 can, I would ask that you avoid doing that. Is that
4 okay?

5 A. Yes.

6 Q. Okay. Are you taking any medications that
7 may impact your ability to give truthful testimony
8 today?

9 A. No.

10 Q. Okay. Any reasons at all that you may not
11 be able to give truthful testimony sitting here
12 today?

13 A. No.

14 Q. Okay. And throughout the deposition, we
15 will, of course, be taking breaks. I'll aim to take
16 breaks every hour or so. But if during the
17 questioning, if you would like to take a break and
18 it's not on the hour, that's fine. You can -- you
19 can ask that we take a break for however long you
20 need. I would just ask that we -- if a question is
21 pending, that we finish the response to the
22 question, and then we can go ahead and coordinate
23 the break. Is that okay?

24 A. Yes.

25 Q. Great.

1 Okay. And you mentioned you have never
2 had your deposition taken before, correct?

3 A. Yes.

4 Q. Okay. And what have you done to prepare
5 for today's deposition?

6 MR. WAHBY: Objection; form.

7 You can answer the question, but do not
8 disclose any information that relates to discussions
9 we've had.

10 A. Had a meeting, a Zoom meeting with some
11 attorneys, and then had an in-person meeting with
12 some attorneys.

13 BY MR. LICHTER:

14 Q. Okay. So there were two total meetings
15 that you had to prepare?

16 A. Yes.

17 Q. Okay. Do you recall the attorneys that
18 were present for both of those meetings?

19 A. I believe Peter was present. The rest, I
20 am -- I don't remember.

21 Q. Okay. About how long those meetings
22 lasted?

23 A. The Zoom -- I would say probably both
24 meetings were four hours-ish.

25 Q. Okay. And have you reviewed any documents

1 to prepare for today's deposition?

2 A. Yes.

3 Q. Okay. Did you review any documents that
4 were not provided to you by counsel?

5 A. No.

6 MR. LICHTER: I'll go ahead and have
7 the first document marked as Exhibit 1.

8 (Exhibit No. 1 marked.)

9 BY MR. LICHTER:

10 Q. Have you seen this document before?

11 A. Yes.

12 Q. And what is it?

13 A. I believe it's a printed page screen of my
14 LinkedIn profile.

15 Q. Okay. And did you prepare the information
16 that's in this document?

17 A. Yes.

18 Q. Is the information in here accurate, as far
19 as you know?

20 A. Generally, yes. Other than the division
21 pharmacy manager district numbers have changed.

22 Q. Okay. I'll represent to you that this is
23 just your experience section of your LinkedIn
24 profile and not the full profile. Does that appear
25 correct?

1 A. It appears correct.

2 Q. Okay. And this isn't reflected on this
3 document, but your LinkedIn profile indicated you
4 attended Drake University from 1989 to 1994. Is
5 that correct?

6 A. Yes.

7 Q. Okay. And you received a Bachelor of
8 Pharmacy from that school in 1994; is that correct?

9 A. A Bachelor of Science in pharmacy.

10 Q. Okay. Have you received any other formal
11 education after high school?

12 A. Besides the Bachelor of Science in
13 pharmacy?

14 Q. Yes.

15 A. No.

16 Q. Okay. Have you received any other degrees?

17 A. No.

18 Q. Do you currently hold any professional
19 licenses or certifications?

20 A. I have a pharmacist license in the state of
21 Texas, and I have a pharmacist license in the state
22 of Nevada.

23 Q. Okay. Do you know when you received your
24 licenses for both of those states?

25 A. The pharmacy license in Nevada would have

1 been August of 1994. The pharmacist license in
2 Texas, I believe, was 2005 or 2006.

3 Q. Okay. So you're currently a licensed
4 pharmacist in both Texas and Nevada, correct?

5 A. Yes.

6 Q. Any other states?

7 A. No.

8 Q. Okay. And looking at the document, pages 1
9 to 2 reflect your work history from 1995 to the
10 present; is that right?

11 A. Yes.

12 Q. Okay. And the top of page 2 indicates you
13 were a pharmacy manager at Sav-On Drugs from '95 to
14 2002 in Las Vegas, correct?

15 A. Yes.

16 Q. Okay. And it says you managed day-to-day
17 pharmacy operations in multiple locations in Las
18 Vegas, Nevada, correct?

19 A. Yes.

20 Q. And how many locations did you manage?

21 A. At one time or meaning cumulative?

22 Q. I guess cumulative.

23 A. Cumulative would have been three different
24 locations.

25 Q. How about at one time?

1 A. One location.

2 Q. And each of those locations were located in
3 Las Vegas, correct?

4 A. Yes.

5 Q. Okay. And it's cut off on this printout,
6 but it indicates you worked as an operations
7 specialist at Albertson's/Sav-On Drugs from 1998 to
8 2002 in Las Vegas. Does that sound right?

9 A. Yes.

10 Q. Okay. Was this a promotion from your last
11 position?

12 A. It was a co-title. So I would have been
13 managing a pharmacy but then also spending time
14 assisting a division pharmacy manager in the
15 marketplace. So, yes, I would say yes.

16 Q. Okay. Is that why the time frames on
17 the --

18 A. That's why --

19 Q. -- two positions overlap?

20 A. -- they overlap, yes.

21 Q. Okay.

22 A. So it's kind of a hybrid role or assistant
23 role, sort of.

24 Q. Okay. Did one of the roles take up more of
25 your time than the other?

1 A. They're about equally distributed.

2 Q. Okay. And how many stores were you in
3 charge of as an operations specialist?

4 A. I would -- I assisted with about 15
5 locations.

6 Q. And those were all in Las Vegas, Nevada, as
7 well?

8 A. Las Vegas, Nevada or the -- you know,
9 Henderson, Nevada, the Las Vegas metropolitan area.
10 I'm not sure if some of them had different names
11 back then.

12 Q. Okay. And those were 15 locations that you
13 assisted with simultaneously?

14 A. Yes.

15 Q. And can you summarize your duties as an
16 operations specialist during this time?

17 A. I would have assisted with inventories. I
18 would have assisted with touching base with
19 pharmacists about, you know, some of their -- their
20 trainings. I would have helped with some -- some
21 records. Basically, just an assistant to what the
22 division pharmacy manager had needs. A lot of
23 mentoring of -- of pharmacists.

24 Q. Would you actually conduct training for the
25 pharmacists you oversaw?

1 A. No. No.

2 Q. So how would you have assisted in the
3 training of the pharmacists?

4 A. I would have, you know, gone and let them
5 ask questions about the management role, less -- let
6 them ask some questions about recordkeeping, let
7 them ask some questions about interviewing.
8 Basically share expertise and share knowledge. But
9 no formalized training.

10 Q. Okay. And how about assisting with
11 inventories, can you break that down a little bit?

12 A. So pharmacies tend to -- depends on
13 markets, but pharmacies tend to have fiscal
14 inventories generally two times a year, but it could
15 be more or it could be less. So you would help that
16 pharmacy with an inventory service to come in and do
17 the accounting and counting of the -- of the
18 products in the pharmacy.

19 Q. That would be the counting of the actual
20 medications on the shelves?

21 A. Yes.

22 Q. Back to the document. It then says you
23 worked as a senior division pharmacy manager at
24 Albertsons in the Dallas-Fort Worth area from 2002
25 to 2003?

1 A. Yes. Two-thousand -- to 2005 you mean?

2 Q. Sorry. 2002 to 2005, yeah.

3 A. Yes.

4 Q. And was this another promotion from your
5 last position?

6 A. Yes.

7 Q. Did you move to Texas in 2002?

8 A. Yes.

9 Q. Why?

10 A. That's where the position was.

11 Q. It says you oversaw pharmacy operations at
12 50 Albertsons pharmacy locations in the Dallas
13 metroplex --

14 A. Yes.

15 Q. -- is that right?

16 A. Yes.

17 Q. It says responsibilities for service,
18 budgeting, inventory, compliance, execution and
19 staffing. Is that --

20 A. Yes.

21 Q. Is that accurate?

22 A. Yes.

23 Q. And do you know how many of these store
24 locations were located in Tarrant County?

25 A. I don't remember.

1 Q. Were any of them?

2 A. Yes.

3 MR. WAHBY: I just want to confirm,
4 that -- all of this that's going on on the Zoom
5 screen, that's a separate recording than this video
6 recording that you're securing, right? This isn't
7 the same recording? It's two different recordings?

8 THE VIDEOGRAPHER: I am capturing
9 everything independently as well as a picture in
10 picture.

11 MR. WAHBY: Okay. So we've got the
12 traditional -- what we call the traditional video
13 recording of the witness, and then separately you're
14 recording this video screen that's got these
15 demonstratives kind of developing? Those are two
16 separate things?

17 THE VIDEOGRAPHER: Yes, sir.

18 MR. WAHBY: Okay. Thanks.

19 Sorry. Go ahead.

20 BY MR. LICHTER:

21 Q. So you mentioned you do not recall how many
22 of the stores you oversaw during this time you were
23 located in Tarrant County; is that right?

24 A. Yes.

25 Q. Could it be -- do you have any sort of

1 estimate? Could it be around half or one or two?

2 A. I -- I could speculate there would be 15 or
3 so. I'm not sure.

4 Q. And can you explain what your duties would
5 have been in compliance?

6 A. My duties in compliance would have been to,
7 on visiting the store, review their recordkeeping,
8 review their signage, their posting of legalized,
9 you know, required documents that need to be posted.
10 Review of their security protocols, making sure that
11 the pharmacy was secure. That's mainly it.

12 Q. So would your duties in compliance touch on
13 the actual process of dispensing medications?

14 A. My duties as -- no.

15 Q. Okay. And were you ensuring compliance
16 with federal and state laws, or were you ensuring
17 compliance with Albertsons' own policies and
18 procedures or both?

19 MR. WAHBY: Objection; form.

20 BY MR. LICHTER:

21 Q. You can answer.

22 A. It would have been both.

23 Q. Okay. And can you explain your duties in
24 staffing?

25 A. Staffing would have been to assist with

1 hiring pharmacists for replacement positions. So if
2 a pharmacist left, we would need to find a new
3 pharmacist at that location.

4 Q. So would you actually be conducting
5 interviews --

6 A. Yes.

7 Q. -- for new hires?

8 A. Yes.

9 Q. Did any of your duties in staffing touch
10 on -- well, did it only touch on replacements in new
11 hires, or did it also touch on, you know, staffing
12 levels at stores from a day-to-day standpoint?

13 MR. WAHBY: Objection; form.

14 A. There -- no. My -- it would have been just
15 to replace the pharmacist.

16 BY MR. LICHTER:

17 Q. Got it. And who did you report to at this
18 time?

19 A. At that time, his name was Gerry Bay.

20 Q. Can you spell his last name?

21 A. B-a-y. First name G-e-r-r-y.

22 Q. Do you remember what his title was?

23 A. I do not.

24 Q. Do you know, were there any specific
25 requirements an employee needs to become a division

1 pharmacy manager for Albertsons?

2 A. Specific requirements, would need to have a
3 pharmacy degree and pharmacy license.

4 Q. Anything else?

5 A. No.

6 Q. And has that always been the case, as far
7 as you know?

8 A. I don't know.

9 Q. All right. Then it says you worked as a
10 district pharmacy supervisor for CVS in the
11 Dallas-Fort Worth area from 2005 to 2007. Is that
12 right?

13 A. Yes.

14 Q. And why did you leave Albertsons for CVS?

15 A. Albertsons as a corporation had some
16 changes financially in terms of how they were going
17 to align, and they had decided to break the company
18 apart at that time, and I felt at that time that
19 that was an unsure climate. So I decided to go to a
20 different company.

21 Q. Did you leave Albertsons on good terms --

22 A. Yes.

23 Q. -- in 2005?

24 A. I felt like I did, yes.

25 Q. Okay. And it says you oversaw pharmacy

1 operations at 34 CVS pharmacy locations in the
2 Dallas metroplex?

3 A. Yes.

4 Q. And responsibilities for service,
5 inventory, compliance, execution and staffing,
6 correct?

7 A. Yes.

8 Q. And so your duties for here for CVS were
9 essentially the same as they were in your prior
10 position at Albertsons?

11 A. Yes.

12 Q. Do you recall about how many of those
13 locations were located in Tarrant County?

14 A. I don't recall.

15 Q. Do you have an estimate?

16 A. A guess would be 20, 25. And I had
17 different -- I had changing districts at one time.
18 So, yeah, it's hard -- hard to pin that down.

19 Q. You had changing districts. Were the
20 districts always located in the Dallas-Fort Worth
21 area?

22 A. Yes.

23 Q. And why did you stop working for CVS in
24 2007?

25 A. I felt like CVS's vision for -- for the

1 pharmacies and the pharmacists that I worked with
2 just didn't agree with what I wanted to do, and so I
3 decided to change.

4 Q. Can you expand on that at all? What sort
5 of vision did CVS have that -- that you didn't agree
6 with?

7 A. They just had a lot of work that would come
8 down to the pharmacies from -- from their corporate
9 that I felt many times were book work and work that
10 maybe didn't always help the pharmacists help the
11 patients.

12 Q. In what sense?

13 A. A lot of spreadsheet checks, a lot of
14 review of maybe even inventory levels or just --
15 just very nit-picky directives from maybe
16 nonpharmacy individuals wanting information for
17 their jobs that maybe didn't always benefit the
18 patients.

19 Q. When you say didn't benefit the patients,
20 do you mean it kind of made them extra busy while
21 they were --

22 A. Absolutely. Time not spent where they
23 could deal with -- take care of patients.

24 Q. Okay. And it says you worked as the vice
25 president of pharmacy operations for QVL Pharmacy

1 Holdings, Inc. --

2 A. Yes.

3 Q. -- in Texas and Louisiana?

4 A. Uh-huh.

5 Q. That's from 2007 to 2010?

6 A. Yes.

7 Q. Is that all correct?

8 A. Yes. Yes.

9 Q. And what kind of company is QVL Pharmacy
10 Holdings, Inc.?

11 A. It was a -- it was an independent pharmacy
12 chain doing community pharmacy.

13 Q. How many stores did you oversee in Texas
14 and Louisiana?

15 A. Thirteen.

16 Q. How many of those were in Texas?

17 A. Ten.

18 Q. Do you know if any of those were in Tarrant
19 County?

20 A. One.

21 Q. Do you remember specifically where that
22 location was?

23 A. Uh-huh. 8th Avenue and Rosedale.

24 Q. Do you know what city that's in?

25 A. Fort Worth.

1 Q. And what were your main duties as the VP of
2 pharmacy operations for QVL at this time?

3 A. QVL, I was, as the -- as the vice
4 president, basically making sure that the pharmacies
5 operated, had -- had policies and procedures of
6 operation. I worked with the CEO on some of the
7 discussions around the financing and around the
8 inventory, contracts with our -- with our
9 wholesalers, and then working with our -- just with
10 our pharmacy teams on hiring, on staffing.

11 Q. And why did you leave QVL in 2010?

12 A. QVL was an independent pharmacy chain. I
13 was probably a little closer to understanding the
14 finances of that company, and the finances of that
15 company started to look like it may not last. And
16 so I decided to take an opportunity and redirect.

17 Q. Got it. Okay. That brings us, I guess, to
18 your position as pharmacy manager at Tom Thumb.

19 A. Yes.

20 Q. That's 2010 to 2015, correct?

21 A. Yes.

22 Q. Okay. Was that just at one store?

23 A. That was in two locations.

24 Q. Do you remember where they were?

25 A. Pharmacy manager in Las Colinas in Irving

1 and pharmacy manager in Mansfield.

2 Q. Is Mansfield also in Irving?

3 A. Mansfield is in Mansfield.

4 Q. Is that a county?

5 A. Mansfield, Texas. City of Mansfield.

6 Q. What county is that in?

7 A. I think it's Tarrant.

8 Q. Okay.

9 MR. WAHBY: He's from California.

10 THE WITNESS: Oh, I'm sorry.

11 MR. WAHBY: Mansfield, Mansfield.

12 That's the quote of the day right there.

13 BY MR. LICHTER:

14 Q. Was it considered a bit of a demotion to go
15 back to being a pharmacy manager after your other
16 positions?

17 A. It could have -- it -- I don't -- I didn't
18 feel like it was a demotion. I felt like at that
19 time I wanted to kind of recharge and step back into
20 the pharmacy role, pharmacist, more hands-on
21 pharmacist role.

22 Q. So were you doing actual dispensing of
23 medications in your role here?

24 A. Yes. Yes.

25 Q. And those two locations you were working

1 at, were you -- were you working at both locations
2 simultaneously?

3 A. No. No.

4 Q. Which one were you working at first?

5 A. First was Las Colinas in Irving.

6 Q. Okay.

7 A. And that's in Dallas County.

8 Q. How long were you there for?

9 A. It seems like it was two years. And then
10 the rest of the time was at Mansfield.

11 Q. Okay. Do you know why you moved to
12 Mansfield?

13 A. Because I lived in Mansfield. So I had an
14 opportunity to take a role closer to home. So
15 commute, lowered my commute.

16 Q. So you worked here until 2015. That's when
17 Albertsons acquired Tom Thumb pharmacies, correct?

18 A. I -- I don't remember the actual time that
19 that acquisition occurred.

20 Q. Okay. I guess according to your LinkedIn,
21 you started working for Albertsons in 2015. Right?

22 A. I -- I don't -- I don't know. I mean, as a
23 division pharmacy manager?

24 Q. Your next position.

25 A. Yes. Yeah.

1 Q. Okay. So it's a division pharmacy manager
2 for districts 1 and 6 --

3 A. Yes.

4 Q. -- the Albertsons southern division --

5 A. Yes.

6 Q. -- from 2015 --

7 A. Yes.

8 Q. -- to the present?

9 A. Yes.

10 Q. Okay.

11 A. So yes.

12 Q. Can you explain what districts 1 and 6 are?

13 A. At that time, it was just two regional
14 areas in the Dallas-Fort Worth area metroplex. I
15 honestly don't even remember what those lined out at
16 that time. I -- I haven't updated the LinkedIn in
17 quite some time.

18 Q. Okay. Is this what you mentioned before,
19 where you said the districts --

20 A. Absolutely.

21 Q. -- the numbers may not be up to date and
22 accurate?

23 A. Yes.

24 Q. Okay. So they may not -- may no longer be
25 referred to as districts?

1 A. District 6 is no longer I would have
2 managed. That's Houston.

3 Q. Got it. Okay.

4 A. And, again, they have realigned. Stores
5 realign at times in corporations. So the division
6 alignments from this -- you know, the stores within
7 those divisions have changed.

8 Q. How many pharmacy locations do you oversee
9 in this position?

10 A. Thirty-two.

11 Q. Okay. Has it consistently been 32?

12 A. It's consistently been 30 up to 32, yes.

13 Q. Okay. Currently it's 32, correct?

14 A. Yes.

15 Q. Do you know how many of those locations are
16 in Tarrant County?

17 A. I believe it's about 26.

18 Q. And are the duties of this position
19 essentially the same as a senior division pharmacy
20 manager for Albertsons in 2002, 2003?

21 A. Yes.

22 Q. Nothing substantively changed?

23 A. No.

24 Q. Okay. And that would be service,
25 budgeting, inventory, compliance, execution and

1 staffing?

2 A. Yes.

3 Q. With the -- with regards to staffing, is
4 that something you oversee on a day-to-day basis?

5 MR. WAHBY: Objection; form.

6 A. No. More situational.

7 BY MR. LICHTER:

8 Q. Can you explain that?

9 A. If a pharmacist decides to choose another
10 option, go to another employer, leave their
11 position, then that would be something to where I
12 would help hire, interview, promote, you know,
13 depending on candidates that are available.

14 Q. Got it.

15 Would you -- was part of your position
16 resolving complaints regarding staffing from
17 pharmacists at the stores you oversaw?

18 MR. WAHBY: Objection; form.

19 A. No. There's a standard of -- there's a
20 standard of how many pharmacists will work. You
21 know, you definitely will always have -- depending
22 on your -- on your hours, but, no, it would have
23 been situational.

24 BY MR. LICHTER:

25 Q. Would the pharmacy managers of each store

1 typically oversee the day-to-day staffing issues of
2 those stores?

3 MR. WAHBY: Objection; form.

4 A. They -- they would oversee the situational
5 staffing of their technicians and their ancillary
6 help in their pharmacy, yes. They would not oversee
7 how to staff their location for pharmacists.

8 BY MR. LICHTER:

9 Q. Who oversees that?

10 A. That's me. That's what I'm overlooking.

11 Q. As far as you know, do each of the
12 pharmacies Albertsons owns in Tarrant County follow
13 the same dispensing policies and procedures set by
14 Albertsons?

15 A. Yes.

16 Q. Okay. And are those policies and
17 procedures set nationally by the company, or are
18 they different from region to region?

19 MR. WAHBY: Objection; form.

20 BY MR. LICHTER:

21 Q. If you know.

22 A. I don't know.

23 Q. Is it fair to say all of the stores you
24 oversee for Albertsons all follow the same policies
25 and procedures?

1 A. Yes.

2 Q. And those are set by corporate, correct?

3 MR. WAHBY: Objection; form.

4 A. I'm not sure who sets them.

5 BY MR. LICHTER:

6 Q. Okay. Do you know which other division
7 pharmacy managers are responsible for the other
8 pharmacy locations in Tarrant County?

9 MR. WAHBY: Objection; form.

10 A. I -- I know them. David Hicks would be.

11 BY MR. LICHTER:

12 Q. Anyone else?

13 A. Not that I know of.

14 Q. And do the different division pharmacy
15 managers often interact with each other?

16 A. Yes.

17 Q. And why would they typically interact?

18 MR. WAHBY: Objection; form.

19 A. Our interaction would be share -- share
20 ideas, share information, you know, if you have a
21 question about a program or implementation, things
22 like that. Just clarifications many times.

23 BY MR. LICHTER:

24 Q. So there weren't any maybe standard set
25 meetings with other district pharmacy managers for

1 discussions, were there?

2 MR. WAHBY: Objection; form.

3 A. For the DPM meeting?

4 BY MR. LICHTER:

5 Q. Yeah.

6 A. No.

7 Q. And do pharmacists communicate directly
8 with their DPMs typically, or do they usually
9 communicate through their pharmacy managers?

10 MR. WAHBY: Objection; form.

11 A. That varies based on situation and need
12 and. . .

13 BY MR. LICHTER:

14 Q. Are there typical instances in which
15 pharmacists would communicate directly with you?

16 A. You know, generally, they would talk to
17 their pharmacy manager for -- I mean, we're talking
18 the staff pharmacists? Is that what you're meaning?

19 Q. Yes.

20 A. Yeah, they would talk to their pharmacy
21 manager. But if the pharmacy manager is
22 unavailable, they may reach out to me.

23 Q. And how do they typically communicate with
24 you?

25 A. They could call me. They could e-mail me.

1 Q. Is one used more than the other?

2 A. Not that I've noticed.

3 Q. Are you familiar with the Texas State Board
4 of Pharmacy?

5 A. Yes.

6 Q. Do they generally oversee pharmacy
7 regulation in the state of Texas?

8 A. I believe so, but I'm not sure of the exact
9 function of their -- their defined charter. So I'm
10 not positive what they -- how they define
11 themselves in that.

12 Q. Is it okay throughout this deposition if I
13 say BOP, can we understand that to mean Board of
14 Pharmacy?

15 A. Sure.

16 Q. And does the Texas BOP ever send anything
17 like notices or alerts to Albertsons regarding
18 certain patients or prescribers?

19 MR. WAHBY: Objection; form.

20 A. I haven't -- I haven't seen those.

21 BY MR. LICHTER:

22 Q. Okay. Do you -- you don't know if they
23 send those or not?

24 A. I don't know.

25 MR. LICHTER: Okay. I'll go ahead and

1 have the next document marked as Exhibit 2. For the
2 record, this document is Bates numbered
3 ALB-MDLCT9-00367181.

4 (Exhibit No. 2 marked.)

5 BY MR. LICHTER:

6 Q. And have you seen this document before?

7 A. No. But now I guess I am. I'm sure I saw
8 it since I sent it as e-mail, but. . .

9 Q. Okay. Is this December 15, 2015, e-mail
10 between you and other Albertsons employees?

11 A. Yes.

12 Q. Okay. And the subject line says, "Rx Labor
13 0232," correct?

14 A. Yes.

15 Q. And I'll represent to you Store No. 232 is
16 an Albertsons pharmacy located -- well, first, do
17 you know where that pharmacy is located?

18 A. Yes.

19 Q. Where is it located?

20 A. It's in Fort Worth.

21 Q. Okay. I'll represent to you the address is
22 3563 Alton Road in Fort Worth. Does that sound
23 correct?

24 A. Yes.

25 Q. Okay. And that's located in Tarrant

1 County?

2 A. Yes.

3 Q. Okay. We can look at the page marked
4 367182, the second page of the document. And the
5 bottom e-mail is from the Store 232 pharmacy general
6 e-mail address; is that right?

7 A. Yes.

8 Q. Okay. And it looks like the person who
9 sent it is named Judd; is that right?

10 A. No.

11 Q. No?

12 A. Robynn sent it.

13 Q. Okay. Do you know why it says "Judd 232"
14 at the bottom?

15 A. I'm sorry, we're talking about the back --
16 where are we talking about?

17 Q. The second page, bottom e-mail.

18 A. Second page. I'm sorry. I was looking on
19 the front page.

20 Q. Okay. Second page, bottom e-mail.

21 A. Okay. Judd, yes.

22 Q. Okay. And this e-mail was sent from the
23 Store 232 pharmacy general e-mail address, correct?

24 A. Yes.

25 Q. Okay. And it was sent from a person named

1 Judd?

2 A. Correct.

3 Q. Do you know Judd's last name?

4 A. Judd, his last name is Connor.

5 Q. Okay. And do you know his position with
6 Albertsons at this time?

7 A. He would have been pharmacy manager.

8 Q. Okay. And this e-mail was sent on
9 December 1, 2015, to you, correct?

10 A. Yes.

11 Q. Okay. And Judd writes, "Don, this a.m. I
12 was told I had to cut \$100 from this week's payroll
13 and will do unless you tell me otherwise. I have
14 always been told my allowed tech hours depended on
15 volume. For the last 90 days, we have filled 10,907
16 prescriptions. That's 93 days. That is 820 a week
17 or 82 tech hours. I am only scheduling 79. Having
18 to cut just seems wrong. Judd 0323. P.S., I wanted
19 to make this all caps but did not. Thanks for your
20 time."

21 Did I read that correctly?

22 A. Yes.

23 Q. And what are technicians responsible for
24 doing at Albertsons pharmacies?

25 A. Technicians would be an ancillary helper

1 for the pharmacists. So they could assist with
2 things like typing prescriptions. They can assist
3 with things like contacting the insurance companies
4 around claims. They can assist with cashier work.
5 They can assist with inventory in terms of, you
6 know, putting inventory up onto the shelves. They
7 can assist with filling prescriptions that have to
8 eventually be checked by the pharmacist. Answering
9 phone calls.

10 Q. Do they assist with filling and dispensing
11 opioid prescriptions?

12 A. Yes. That's not -- that's not every
13 location, but that's the comfort level of the
14 pharmacist. Some pharmacists want to have -- they
15 do it themselves. But, yes, they can do that, yes.

16 Q. Do some techs actually fill the opioid
17 prescriptions?

18 A. Yes.

19 MR. WAHBY: Objection; form.

20 BY MR. LICHTER:

21 Q. Here when Judd says he was told to cut a
22 hundred dollars from this week's payroll, who would
23 have given that instruction?

24 A. Store director.

25 Q. And where in the -- the chain of command is

1 the store director located?

2 A. The store director is responsible for the
3 operations for the entire facility. The pharmacy is
4 a department within that -- within those four walls.
5 But the store director has an ultimate financial
6 obligation to the store.

7 Q. Are store directors in charge of multiple
8 stores at a time?

9 A. No, one store.

10 Q. I guess in the pecking order, are you above
11 the store director for any of the locations you
12 oversee?

13 A. They -- store directors do not report to
14 me.

15 Q. Okay. So what does it mean here when Judd
16 says he needed to cut \$100 from the week's payroll?

17 MR. WAHBY: Objection; form.

18 BY MR. LICHTER:

19 Q. Do you know what that means?

20 A. I'm not sure what Judd was told in that
21 case.

22 Q. Irrespective of what he was actually told,
23 do you know what it means to cut \$100 from payroll?

24 MR. WAHBY: Objection; form.

25 A. I -- I would guess she had asked him maybe

1 to schedule less hours in his pharmacy, but I
2 couldn't be sure.

3 BY MR. LICHTER:

4 Q. Do you know why something like that would
5 be requested of a pharmacy manager?

6 MR. WAHBY: Objection; form.

7 A. I -- unsure other than the -- that store
8 director has a -- has a number that they are trying
9 to make around the total performance of the store.

10 BY MR. LICHTER:

11 Q. When you say "the total performance," do
12 you mean the revenue that the -- that the store is
13 seeing?

14 A. Overall financial performance, yes.

15 Q. Based on the e-mail, he basically says he
16 is already scheduling 79 tech hours even though his
17 pharmacy should have 82 tech hours. Does that seem
18 accurate?

19 A. Is that accurate what he said?

20 Q. Is that accurate that that's a summary of
21 what he is saying, what he is telling you in this
22 e-mail?

23 A. That --

24 MR. WAHBY: Objection; form.

25 A. -- seems to be what he typed, yes.

1 BY MR. LICHTER:

2 Q. And his opinion here is that reducing that
3 number of tech hours even further, "just seems
4 wrong," correct?

5 A. That's what he said, yes.

6 Q. Do you agree with that opinion?

7 MR. WAHBY: Objection; form.

8 A. I don't have all the facts to understand
9 what his motivations were on that.

10 BY MR. LICHTER:

11 Q. Do you agree with the general proposition
12 that a pharmacy that should have 82 tech hours but
13 is only scheduling 79 tech hours should not reduce
14 the tech hours any further?

15 MR. WAHBY: Objection; form.

16 A. Again, I have no idea where he's basing his
17 82 based on.

18 BY MR. LICHTER:

19 Q. I'm just asking you as a generality, not
20 specifically what his -- what he's basing that on.

21 MR. WAHBY: Objection; form.

22 A. Again, I guess I'm not sure what your
23 generality -- what are you generally asking?

24 BY MR. LICHTER:

25 Q. If a pharmacy requires or should have 82

1 tech hours scheduled at any given time but it's only
2 scheduling 79, do you think that reducing that
3 number even further is problematic?

4 MR. WAHBY: Objection; form.

5 A. Again, I don't know what the -- when you
6 say "should," I'm not sure what "should" means in
7 that case.

8 BY MR. LICHTER:

9 Q. And this complaint that Judd is sending
10 you, is this something that -- is this a common
11 complaint you may receive as a district pharmacy
12 manager?

13 MR. WAHBY: Objection; form.

14 A. It's not a common complaint. Those are
15 discussions that pharmacies have with -- with their
16 team members and their stores all the time around
17 managing their -- their workload.

18 MR. WAHBY: Do you want another water?

19 THE WITNESS: Yeah, if you've got one.
20 They're kind of little. Don't get too hydrated.

21 BY MR. LICHTER:

22 Q. Okay. At the top of the page here you
23 respond to the e-mail on December 2, 2015, correct?

24 A. Yes.

25 Q. Okay. And you write, "Judd, unfortunately,

1 we do not have the pure ten hours/100 script rule
2 anymore. The labor model has been pared back and
3 individualized based on location, factoring in
4 volume and pay rates."

5 Did I read that right?

6 A. Yes.

7 Q. What was the ten hours/100 script rule?

8 A. That was a rule that Albertsons had at one
9 point in terms of their staffing model.

10 Q. And what was it? What was the rule?

11 A. Every -- every hundred scripts, they earned
12 ten hours of technician. That was a rule that they
13 had. Or a -- rule, I guess that's the wrong way to
14 say it. That was the policy or the guidance.
15 Probably a better way -- word to say is guidance.

16 Q. So would Albertsons look back on how many
17 prescriptions a store was filling, and then based on
18 that number, it would determine for -- for every 100
19 scripts, out of those filled, that store would be
20 allotted ten tech hours?

21 A. Yeah, as a -- as a model, yes.

22 Q. Okay. And that would be ten tech hours per
23 day? Per week?

24 A. Per week. And 100 scripts per week. 100
25 scripts per week as well.

1 Q. Do you know when that policy ended?

2 A. I do not.

3 Q. Do you have any sort of general ballpark?

4 MR. WAHBY: Objection; form.

5 A. I don't, because I wasn't in a management
6 role with Albertsons at that time when that was
7 changed, as far as I know.

8 BY MR. LICHTER:

9 Q. Do you have any sort of estimate as to when
10 that policy may have ended?

11 MR. WAHBY: Objection; form.

12 A. I don't know.

13 BY MR. LICHTER:

14 Q. And what do you mean when you write, "The
15 labor model has been pared back"? Can you explain
16 that?

17 A. As far as I know, the labor model, it -- it
18 had been realigned to better match volumes of
19 stores. Some stores may have gotten more labor,
20 some stores -- or more in the model, and some stores
21 may have had less in the model.

22 Q. So even though your phrasing here is that
23 the model has been pared back, that means some
24 stores could actually have been --

25 A. Pared --

1 Q. -- receiving more?

2 A. Pared back based on where Judd was at. So
3 Judd's level of scripts, it had been pared back.
4 Some stores that were busier may have been given an
5 expanded amount. Or if they had a drive-thru, they
6 may have been given more for that feature.

7 Q. Okay. And I think you're touching on this
8 now, but how is the labor model individualized to
9 factor in volume and pay rates?

10 A. It's -- it's a guidance around
11 prescriptions sold per week.

12 Q. Looking at the middle of the same paragraph
13 that we're reading, it says, "That being said. . ."
14 Do you see that?

15 A. "That being said," yes.

16 Q. "That being said, cutting dollars isn't
17 what we need to do. We need to look at hours worked
18 and make sure we factor those correctly. So if we
19 have a technician making less per hour, giving them
20 more hours than a higher paid technician will help."

21 Did I read that correctly?

22 A. Yes.

23 Q. So your suggestion here is to schedule
24 lower paid technicians more than higher paid
25 technicians; is that right?

1 MR. WAHBY: Objection; form.

2 A. I'm giving him an option that there may be
3 a way to have the same amount of hours with less
4 dollars spent.

5 BY MR. LICHTER:

6 Q. Right. And that option is to schedule
7 lower paid technicians more frequently than higher
8 paid technicians, correct?

9 MR. WAHBY: Objection; form.

10 A. You -- that was something that you could --
11 you could schedule some technicians that make a
12 lower wage to make out your hours, yes.

13 BY MR. LICHTER:

14 Q. Okay. I understand that you can do that.
15 I'm just trying to confirm that that's the advice
16 you're giving him?

17 A. Yes.

18 Q. Okay. And was that suggestion made with
19 the goal of saving Albertsons money?

20 A. That suggestion was the goal that Judd
21 could find more hours of people to help him in the
22 pharmacy.

23 Q. For less money, correct?

24 A. For overall --

25 MR. WAHBY: Objection; form.

1 A. For overall spending, trying to -- trying
2 to maximize, yes.

3 BY MR. LICHTER:

4 Q. Okay. And can you give any estimate as to
5 Albertsons' pay scale for techs at its pharmacies?

6 A. Currently?

7 Q. Yes.

8 A. To pay scale? Pharmacy --

9 MR. WAHBY: Objection; form.

10 Sorry. Go ahead.

11 A. Pharmacy technicians are scaled depending
12 on experience and time. It would go from 15.50 to
13 \$20.25.

14 BY MR. LICHTER:

15 Q. And higher paid technicians would typically
16 be technicians with more experience than lower paid
17 technicians; is that correct?

18 A. Yes.

19 Q. So I guess based on your e-mail here, then,
20 to Judd, is the advice to schedule more technicians
21 with less experience so Albertsons could meet its
22 goal of saving \$100 per week?

23 MR. WAHBY: Objection; form.

24 A. The goal was for him to look at his total
25 spend and make sure he maximized the hours that he

1 could spend and using the personnel he had
2 available. If he had technicians that made less per
3 hour but were still qualified to do the job, that
4 may give him more hours if his store director is
5 looking at a total dollar spend, yes.

6 BY MR. LICHTER:

7 Q. Right. And he says in his e-mail that he
8 had to cut \$100 off of his payroll, right?

9 A. Yes.

10 Q. Okay. And your advice is to schedule the
11 lower paid technicians or the lower experienced
12 technicians so he can meet that \$100 savings,
13 correct?

14 MR. WAHBY: Objection; form.

15 A. Helping him to get to the number that he
16 and his store director are trying to get to, yes.

17 BY MR. LICHTER:

18 Q. Right. Which is \$100 savings from each
19 week's payroll, according --

20 A. Is what --

21 Q. -- to his e-mail?

22 A. Is what he had been asked to do, yes.

23 Q. Okay. We can look at the first page on
24 this document, 367181, and the top e-mail here is
25 from you to Julie Spier.

1 A. Yes.

2 Q. It's dated December 15, 2015. Do you see
3 that?

4 A. Yes.

5 Q. And who is Julie Spier?

6 A. Julie Spier is the director of pharmacy
7 operations for -- at -- at this time she would have
8 been for the Houston division and the Southern
9 division. She's now of just the Southern division.
10 There's no Houston division anymore.

11 Q. In the e-mail you write, "Julie, this is
12 one of the stores that seems a bit narrow around
13 labor. Store filling around 700-plus scripts week.
14 Minus out the RPH dollars, 5,040, and the store
15 would have less than \$90 a week for technician
16 help."

17 Did I read that correctly?

18 A. Yes.

19 Q. And what does RPH stand for?

20 A. Pharmacist.

21 Q. And when you say the budget would leave \$90
22 a week for technician help, does that mean after the
23 pharmacist is paid --

24 A. Yes.

25 Q. -- Albertsons' spending goal would only

1 leave \$90 a week to pay technician?

2 A. Based on that -- on that budget, yes.

3 Q. Do you recall how this issue was ultimately
4 resolved?

5 A. I don't.

6 MR. LICHTER: We're at about one hour.
7 Is everybody okay to take a ten-minute break?

8 THE WITNESS: Yes.

9 MR. WAHBY: Sure.

10 MR. LICHTER: We'll go off the record.

11 THE VIDEOGRAPHER: The time is
12 11:56 a.m., and we are off the record.

13 (Break taken, 11:56 a.m. to 12:07 p.m.)

14 THE VIDEOGRAPHER: The time is
15 12:07 p.m., and we are on the record.

16 MR. LICHTER: Welcome back,
17 Mr. Bowman.

18 I'll go ahead and have the next document
19 marked as Exhibit 3. For the record, this document
20 is Bates numbered ALB-MDLCT9-00122497.

21 (Exhibit No. 3 marked.)

22 BY MR. LICHTER:

23 Q. And have you seen this document before?

24 A. No, but yes. I mean, obviously, it was an
25 e-mail to me. So at some point I did see it, yes.

1 Q. Okay. And is this a July 23, 2018, e-mail
2 you received from a pharmacist at Albertsons Store
3 No. 4163?

4 A. Yes.

5 Q. Do you know where Store 4163 is located?

6 A. Yes.

7 Q. Where is that located?

8 A. It is in Arlington, Texas.

9 Q. Okay. I think the address is 5950 South
10 Cooper Street. Does that sound right?

11 A. Yes.

12 Q. Okay. And that's located in Tarrant
13 County, correct?

14 A. Yes.

15 Q. Okay. Do you know the name of the person
16 that sent this e-mail to you?

17 A. No.

18 Q. Do you know that person's job title?

19 A. No.

20 Q. Is it presumably from a pharmacist or a
21 pharmacy manager at this location?

22 MR. WAHBY: Objection; form.

23 A. It's from the pharmacy general e-mail
24 account. So that could be anybody working in the
25 pharmacy.

1 BY MR. LICHTER:

2 Q. Who typically uses that e-mail account?

3 A. All the individuals working in the
4 pharmacy.

5 Q. Techs?

6 A. Can, yes.

7 Q. Okay. The e-mail says, "Hey Don, I just
8 got a confirmation today on a fraud prescription,
9 oxycodone, 30 milligrams. Patient is [REDACTED]
10 [REDACTED], for oxycodone, 30 milligrams.

11 He's going around Arlington/DFW. Dr. Gregory Skie
12 had a script pad stolen. Just FYI."

13 Did I read that correctly?

14 A. Yes.

15 Q. Do you recall if you or anyone else at
16 Albertsons took any action in response to receiving
17 this e-mail?

18 A. I do not recall.

19 Q. Would you typically take action in response
20 to receiving an e-mail like this?

21 A. I would generally forward some form of this
22 to the pharmacies near that location.

23 Q. You don't recall if you did that here?

24 A. I do not.

25 Q. Would you typically forward that to the --

1 the store pharmacy general e-mail addresses?

2 A. Yes.

3 Q. Okay. Do you know who typically sees those
4 e-mails?

5 MR. WAHBY: Objection; form.

6 A. Anybody working in the pharmacy could see
7 those.

8 BY MR. LICHTER:

9 Q. Is there any sort of directive for
10 everybody working in the pharmacy to look at and
11 review e-mails received at that e-mail address?

12 A. There's a directive that the expectation is
13 the pharmacists working that day should check their
14 e-mail, yes.

15 Q. So all pharmacists working in a day are --

16 A. Expected to.

17 Q. -- expected to check this general e-mail
18 address?

19 A. Yes.

20 Q. Okay. Techs aren't expected to check it?

21 A. No.

22 Q. Are the pharmacy managers expected to check
23 it?

24 A. They're pharmacists, so yes.

25 Q. Do you know if this patient, [REDACTED]

1 ██████████, was put on any sort of do-not-fill list?

2 A. No.

3 MR. WAHBY: Objection; form.

4 THE WITNESS: Sorry.

5 A. No.

6 BY MR. LICHTER:

7 Q. No, you don't know, or, no, he was not?

8 A. I don't know.

9 Q. Okay. Did Albertsons keep any sort
10 do-not-fill list for certain patients?

11 A. No.

12 Q. Do you know if this patient was flagged in
13 any way for Albertsons' pharmacists?

14 MR. WAHBY: Objection; form.

15 A. I don't know.

16 BY MR. LICHTER:

17 Q. Would -- after receiving an e-mail like
18 this, would a patient like this typically be flagged
19 by Albertsons in any way?

20 MR. WAHBY: Objection; form.

21 A. Not -- no specific way. Some -- a
22 pharmacist may have seen this and made it, but I
23 don't know.

24 BY MR. LICHTER:

25 Q. Okay. So you're not aware of any system or

1 procedure Albertsons had to -- to circulate the
2 names of maybe potential problematic patients; is
3 that fair to say?

4 MR. WAHBY: Objection; form.

5 A. I'm not aware of any, no.

6 BY MR. LICHTER:

7 Q. Okay. Do you know if Albertsons had the
8 capabilities to flag patients along those lines?

9 MR. WAHBY: Objection; form.

10 A. I'm not aware of that, no.

11 BY MR. LICHTER:

12 Q. Do you know if this patient was ever
13 referred to law enforcement?

14 A. I do not know.

15 Q. Have you ever referred a patient to law
16 enforcement?

17 A. As a pharmacist, yes.

18 Q. Okay. How about as a district pharmacy
19 manager?

20 A. No.

21 Q. Do you know if any sort -- if Albertsons
22 put out any sort of alert regarding prescriptions
23 purporting to be written by Gregory Skie?

24 A. I'm not aware of any, no.

25 Q. Okay. Is that something Albertsons would

1 typically have done in this situation?

2 MR. WAHBY: Objection; form.

3 A. No.

4 BY MR. LICHTER:

5 Q. Do you know if this e-mail was submitted up
6 to corporate for any further actions to be taken?

7 A. I do not know.

8 MR. LICHTER: Set this one aside.

9 I'll hand you the next document marked as Exhibit 4.
10 For the record, this is Bates numbered
11 ALB-MDLCT9-00135844.

12 (Exhibit No. 4 marked.)

13 BY MR. LICHTER:

14 Q. Have you seen this document before?

15 A. Yes.

16 Q. When's the last time you saw it?

17 A. 2019.

18 Q. Okay. Is this a July 24, 2019, e-mail
19 string between you and other Albertsons employees?

20 A. Yes.

21 Q. Let's go down to the last page, Bates
22 number 135845. Sorry, the second to the last page.

23 A. Okay.

24 Q. Not the last page.

25 Let's look at the e-mail from Store 3312

1 to you, Don Bowman, on April 22, 2019. Do you see
2 that?

3 A. Yes.

4 Q. Okay. Towards the bottom of the page, the
5 e-mail says, "Hi Don, we have received a possible
6 fake e-scribe under a Dr. Todd Akins," and it gives
7 his DEA number, "twice over the past three days.
8 One for an oxycodone, 30 milligram, 96, and a second
9 for an oxycodone, 30 milligram, 120, for the same
10 patient. The address on the e-scribe is from the
11 Baylor Scott & White Hospital on 1400 8th Avenue.
12 We called them, and they state this doctor is not
13 one of their physicians and this patient has not
14 been seen by them. If you search the doctor, he
15 actually shows as an anesthesiologist out of
16 Houston. The PT does not have any history of taking
17 this med in the PMP. Of course, I cannot get in
18 touch with the doctor to 100 percent confirm it is
19 fake, but this has red flags all over it. I just
20 want to report this as I am not aware of seeing a
21 fraudulent e-scribe with an altered address on it
22 previously. Thanks, Glenda."

23 Did I read that correctly?

24 A. Yes.

25 Q. Okay. Are you aware that Albertsons Store

1 3312 is a Tom Thumb located in Tarrant County?

2 A. Yes.

3 Q. Okay. Are you aware that it's located at
4 2400 West 7th Street in Fort Worth?

5 A. Yes.

6 Q. Okay. Do you know Glenda's full name?

7 A. Glenda, her last name was Hart, H-a-r-t.

8 Q. Do you know her job title at this time?

9 A. Pharmacy manager.

10 Q. Okay. And it looks like the very next day
11 you forward that e-mail to Charlie Painter, Mark
12 Allgood and Julie Spier on August 23, 2019. Is that
13 right?

14 A. Yes.

15 Q. And in that e-mail you say, "I feel like we
16 have already dealt with this possible phony M.D. in
17 the Fort Worth area. Can we find out?"

18 Did I read that right?

19 A. Yes.

20 Q. Do you recall whether you or anyone else at
21 Albertsons actually dealt with this phony prescriber
22 before Glenda's e-mail?

23 A. I don't remember. Meaning, I -- at the
24 time, I felt like this was a -- something that had
25 come up. The issue on this one was -- I guess the

1 key part of this was it was called an e-scribe,
2 meaning the prescription was electronically sent to
3 us. So that was where -- my question is I -- I had
4 thought that there was an electronically prescribed
5 issue with this doctor in the past.

6 Q. Okay. Previously, would an issue with this
7 doctor have come to your attention by a pharmacist
8 e-mailing you?

9 A. Similar, yes.

10 Q. Okay. Do you recall --

11 A. Or it could have been -- it could have been
12 a meeting when I was in the store.

13 Q. Okay. Do you recall how the issue was
14 dealt with previously?

15 A. No. That's -- no.

16 Q. And who is Charlie Painter?

17 A. Charlie Painter, he was the -- or is the --
18 I'm not positive what his title is now --
19 director -- director -- he basically worked for our
20 pharmacy professional services department in our
21 corporate offices.

22 Q. Why did you include him on this e-mail?

23 A. Because it was an electronically sent
24 prescription that was fraudulent.

25 Q. Okay. And why would that come within his

1 purview?

2 A. Because as professional services, I was
3 trying to get some insight to how someone -- you
4 know, this is, what, 2019. So 2019, electronic
5 prescribing of controlled substances was fairly new.
6 It wasn't brand new, but it was pretty new. So I
7 was including Charlie and Mark Allgood, who is
8 our -- one of our IT guys to say how are we
9 seeing -- how are we seeing electronic -- because I
10 was kind of like, well, electronic prescriptions
11 should be pretty secure. So how -- how is someone
12 getting this information? So that was my question.

13 Q. Charlie Painter was considered the IT guy?

14 A. Mark Allgood would be the IT guy.

15 Q. Do you remember what Mark Allgood's
16 position was at this time?

17 A. Head of pharmacy IT, but I don't know the
18 exact title.

19 Q. And Julie Spier, we discussed before.

20 A. Correct.

21 Q. Do you remember what her position was at
22 this time in 2019?

23 A. Director of pharmacy operations.

24 Q. Okay. Did Charlie Painter, Mark Allgood or
25 Julie Spier ever respond to this e-mail you sent

1 them?

2 A. I don't remember their response. I guess
3 Mark did respond.

4 Q. Let's look above that.

5 A. Yes.

6 Q. The e-mail above that is three months later
7 on July 24, 2019. Do you see that?

8 A. Yes.

9 Q. And you, again, write to Charlie Painter,
10 Mark Allgood and Julie Spier to say, "All, this
11 continues to be an issue. Now occurring in Austin
12 as well as DFW area. Got the message below from an
13 Austin Randalls."

14 Did I read that correctly?

15 A. Yes.

16 Q. Okay. I'm going to read what that message
17 says, so bear with me.

18 The message says, "Hey Don, Deb over at
19 People's called to give us a heads up that they got
20 some fraudulent e-prescriptions for oxycodone and
21 some other cheap antibiotics that didn't make sense,
22 i.e., 30 days of amoxicillin, et cetera. Apparently
23 there's a mole in a legit doctor's office sending
24 out e-prescriptions for fake patients under
25 Dr. Akins' name. She called the doctor who is an

1 anesthesiologist out of Houston who is not set up
2 for e-prescriptions and doesn't prescribe anything
3 stronger than Tylenol 3 and reported that his info
4 was compromised about two years ago. If you call
5 the number listed on the prescription, it basically
6 puts you through to a simple automated line that
7 routes you to a cell phone. Deb ran the PDMP and
8 saw that some Randalls had filled their stuff. So
9 she wanted me to spread the word."

10 Did I read that okay?

11 A. Yes.

12 Q. Okay. Who is Deb over at -- over at
13 People's?

14 A. I have -- People's is a pharmacy chain in
15 Austin. So I don't know who Deb is. I assume she
16 works at People's.

17 Q. People's was -- at this time was not owned
18 by Albertsons, correct?

19 A. It is not owned by Albertsons, right.

20 Q. And what does it mean for a doctor's
21 information to be compromised?

22 MR. WAHBY: Objection; form.

23 A. I don't know exactly. In this case, I'm
24 guessing his electronic prescribing account was
25 compromised, but I don't know the IT term of what

1 that would have been.

2 BY MR. LICHTER:

3 Q. Okay. Just to try to summarize this e-mail
4 here, is it correct that another pharmacist named
5 Deb, I think over at the People's pharmacy chain,
6 received some sketchy prescriptions from this
7 Dr. Akins, called his office and found out his
8 information had been compromised two months before
9 she ever called? Does that sound right?

10 MR. WAHBY: Objection; form.

11 A. If that's how it reads, yes.

12 BY MR. LICHTER:

13 Q. Okay. Do you have a different
14 understanding as to how that reads?

15 MR. WAHBY: Objection; form.

16 A. No.

17 BY MR. LICHTER:

18 Q. Okay. Do you know if this was the first
19 time you learned that Dr. Akins' information had
20 been compromised?

21 A. I guess I'm confused. Are you talking
22 about the Deb e-mail or the e-mail we talked about
23 earlier on this page?

24 Q. The Deb e-mail.

25 MR. WAHBY: Objection; form.

1 A. I would say I knew about it further back in
2 April based on the e-mail below.

3 BY MR. LICHTER:

4 Q. You knew about it back in April. And then
5 in your e-mail you mentioned sometime prior to
6 April 2019 you knew about it, correct?

7 A. At some point.

8 Q. Okay. You don't remember if that was also
9 in 2019?

10 A. I don't remember.

11 Q. Could that have been prior to 2019?

12 MR. WAHBY: Objection; form.

13 A. I don't remember.

14 BY MR. LICHTER:

15 Q. Okay. Back on the first page. The same
16 day, on July 24, 2019, Mark Allgood responds to your
17 e-mail to say, "Don, I am going to need the
18 prescriber being used and his correct information.
19 I see it's a Todd Akins that is an anesthesiologist
20 from Houston. We'll need to contact them, validate
21 that there is and has been a compromise of his
22 information. Then we can go through the proper
23 channels to have his information inactivated."

24 Did I read that correctly?

25 A. Yes.

1 Q. Do you know why it took Mark Allgood three
2 months to respond to your concerns about fraudulent
3 prescriptions from Dr. Akins?

4 A. I don't know why it took him that long.

5 Q. Okay. Was that a typical response time for
6 these sorts of issues?

7 MR. WAHBY: Objection; form.

8 BY MR. LICHTER:

9 Q. In your experience.

10 A. There wasn't this many of these, so I
11 wouldn't know.

12 Q. And during that three-month period before
13 he responded, did Albertsons send out an alert to
14 Albertsons' pharmacists on Dr. Akins or any of the
15 patients presenting prescriptions from him, if you
16 know?

17 A. I don't remember.

18 MR. WAHBY: Objection; form.

19 A. I don't know.

20 BY MR. LICHTER:

21 Q. Is that something Albertsons would
22 typically do?

23 MR. WAHBY: Objection; form.

24 A. I -- we did not typically do that, no.

25 BY MR. LICHTER:

1 Q. Then in the last paragraph of Mark
2 Allgood's e-mail, he says, "Then please open a case
3 with ERx Network via e-mail to begin the process of
4 investigation of this prescriber activity and
5 potentially shut the prescriber off the network.
6 Surescripts/ERx Network decision."

7 Do you see that?

8 A. Yes.

9 Q. Can you explain this process of opening a
10 case with the ERx Network to investigate a
11 prescriber?

12 A. No. I don't -- I don't know how -- what
13 that means.

14 Q. You don't know anything about that?

15 A. No.

16 Q. You don't have any information on what
17 those investigations may entail?

18 A. No.

19 MR. WAHBY: Objection; form.

20 A. No.

21 BY MR. LICHTER:

22 Q. Do you know if Albertsons maintains any
23 sort of central list of doctors that have been
24 investigated?

25 A. I don't know.

1 Q. Do you know what it means to shut the
2 prescriber off the network?

3 A. I do not know.

4 Q. Do you know if there's a list of
5 prescribers that have been shut off?

6 A. I do not know.

7 Q. Do you know what the results of this
8 investigation found?

9 A. No.

10 Q. Do you know why Mark Allgood didn't order
11 an investigation when he was first e-mailed about
12 this doctor back in April?

13 MR. WAHBY: Objection; form.

14 A. I do not know.

15 MR. LICHTER: Okay. We can set this
16 one aside. I'll have the next document marked
17 Exhibit 5. For the record, this document is Bates
18 numbered ALB-MDLCT9-00094579.

19 (Exhibit No. 5 marked.)

20 BY MR. LICHTER:

21 Q. I'll represent to you this is an extract
22 from a March 4, 2021, Excel sheet Albertsons
23 produced in this litigation at the Bates number I
24 just read. And I'll also represent that I
25 highlighted some of the store numbers in the

1 right-hand column.

2 Do you see that?

3 A. Yes.

4 Q. Okay. And this appears to be a list of 32
5 Albertsons pharmacies for which you serve as a
6 division pharmacy manager as of March 2021. Does
7 that seem correct?

8 A. Yes.

9 Q. And the highlighted stores are the ones I
10 believe are located in Tarrant County, Texas.

11 A. Yes.

12 Q. That appears accurate?

13 A. Yes. I think I said 26 earlier in this,
14 but it looks like it's 25.

15 Q. Okay. In looking at this chart, do you see
16 anything here that might appear inaccurate at all?

17 MR. WAHBY: Objection; form.

18 A. I don't see anything.

19 BY MR. LICHTER:

20 Q. As far as you know, does this chart reflect
21 your current assignments?

22 A. Yes.

23 Q. Have you seen -- have you overseen the same
24 stores for the entire time you've served as a
25 division pharmacy manager for Albertsons?

1 A. No.

2 Q. Do you know which ones have changed?

3 A. No. Yes. I'll say it this way, I had -- I
4 at one time had a district in Austin. That was for
5 about two and a half years. And then, again, stores
6 have changed in alignments, so it's hard to pin down
7 exactly all those changes.

8 Q. When you say "alignments," what do you mean
9 by that?

10 A. Districts. So stores could get
11 redistricted.

12 Q. Okay. How many stores did you oversee in
13 Austin?

14 A. Fourteen, I believe.

15 Q. Okay. I would like to talk about just, I
16 think, three stores that are on this list here:
17 Store 4102, 4290, and 4150.

18 A. Okay.

19 Q. Do we agree that those are stores that you
20 oversee?

21 A. Yes.

22 Q. And those stores are located in Tarrant
23 County?

24 A. Yes.

25 Q. Okay.

1 A. Yeah, 4290. Did you say 4290?

2 Q. Yes.

3 A. I guess that's Azle. So that's still
4 Tarrant County. It's close.

5 MR. LICHTER: Set this one aside and
6 have the next document marked as Exhibit 6.

7 (Exhibit No. 6 marked.)

8 BY MR. LICHTER:

9 Q. You haven't seen this document before, have
10 you?

11 A. No.

12 Q. Okay. I'll represent to you this is a --
13 this chart we're looking at is a summary of the
14 opioid dispensing data Albertson -- sorry --
15 Albertsons produced for Store 4102 in dosage units
16 created by Dr. Craig McCann in this litigation.

17 MR. WAHBY: Which we object to the use
18 of this document as an exhibit because it's not
19 Bates labeled and don't know where it came from.

20 MR. LICHTER: That's fine.

21 BY MR. LICHTER:

22 Q. And a dosage unit is essentially a pill; is
23 that correct?

24 A. Yes.

25 Q. Okay. And the top here indicates

1 Albertsons Store 4102 is located at 1021 North
2 Saginaw Boulevard in Saginaw, Texas. Does that
3 sound right?

4 A. Yes.

5 Q. Okay. And Saginaw is located in Tarrant
6 County?

7 A. Yes.

8 Q. And you oversee Store 4102 currently?

9 A. Yes.

10 Q. Okay. Do you have any idea what the
11 population of Saginaw, Texas is?

12 A. No.

13 Q. Okay. I'll represent to you according to
14 the U.S. Census Bureau, the population of Saginaw,
15 Texas was 24,011 people in 2021. So approximately
16 24,000 people. Do you have any reason to dispute
17 that?

18 MR. WAHBY: Objection; move to strike.

19 BY MR. LICHTER:

20 Q. You can answer.

21 A. I have no idea.

22 Q. Okay. It's fine.

23 And first it looks like for every year
24 since 2006 on this chart, with the exception of
25 2011, Albertsons Store 4102 dispensed more opioid

1 pills into Saginaw than the actual number of people
2 that live there. Does that look right?

3 MR. WAHBY: Objection; form.

4 A. Yes.

5 BY MR. LICHTER:

6 Q. Okay. Does that seem reasonable to you on
7 its face?

8 MR. WAHBY: Objection; form.

9 A. Does what seem reasonable to me?

10 BY MR. LICHTER:

11 Q. Does dispensing more pills into Saginaw
12 than the amount of people that live there seem
13 reasonable?

14 MR. WAHBY: Objection; form, assumes
15 facts not in evidence.

16 A. Without knowing the demographics in terms
17 of the scripts that were written, in terms of the
18 quantities, the directions, there's a lot of
19 variables to make that a difficult guess.

20 BY MR. LICHTER:

21 Q. Okay. And you don't have those variables,
22 correct?

23 A. Absolutely not.

24 Q. You don't have the demographic information?

25 A. I don't have the -- all the script

1 information.

2 Q. Okay.

3 A. I don't have any of that.

4 Q. Do you know why there's no data here for
5 the year 2011?

6 A. No.

7 Q. Do you know if this store stopped
8 dispensing drugs that year?

9 A. I don't know.

10 Q. Okay. If one of the stores you oversaw
11 stopped dispensing drugs for a year, is that
12 something that you would be aware of?

13 MR. WAHBY: Objection; form.

14 A. Yes.

15 BY MR. LICHTER:

16 Q. Okay. And looking at the year 2014 on this
17 chart, it indicates Albertsons Store 4102 dispensed
18 203,250 dosage units into Saginaw. Do you see that?

19 A. Yes.

20 Q. Okay. And, again, in a city of about 24 --
21 sorry -- 24,000 people, that comes out to over 8
22 pills that year for every man, woman and child in
23 Saginaw. Does that number seem reasonable to you?

24 MR. WAHBY: Objection; form.

25 A. Without knowing how they were prescribed

1 and who they were prescribed for, I have no idea.

2 BY MR. LICHTER:

3 Q. Okay. And over on the bottom left of the
4 chart it indicates Albertsons Store 4102 dispensed a
5 grand total of 2,120,553 opioid dosage units into
6 Saginaw from 2006 to 2021. Do you see that?

7 A. Yes.

8 Q. Okay. And, again, in a city of about
9 24,000 people, that comes out to over 88 pills per
10 person in Saginaw. Does that seem reasonable to
11 you?

12 MR. WAHBY: Objection; form.

13 A. Again, without knowing all the
14 information. . .

15 BY MR. LICHTER:

16 Q. Okay. Based on these numbers we're looking
17 at, do you think maybe -- maybe this Albertsons
18 location was filling more opioid prescriptions than
19 it should have been?

20 MR. WAHBY: Objection; form.

21 A. I couldn't say that.

22 BY MR. LICHTER:

23 Q. Okay. And did Albertsons ever provide you
24 with any data so you could determine whether Store
25 4102's opioid dispensing was reasonable?

1 MR. WAHBY: Objection; form.

2 A. No.

3 BY MR. LICHTER:

4 Q. If it did provide you that sort of
5 information on demographics and dispensing trends,
6 stuff like that, would that information be helpful
7 for you in your job?

8 MR. WAHBY: Objection; form.

9 A. No.

10 BY MR. LICHTER:

11 Q. Why wouldn't that be helpful for you?

12 MR. WAHBY: Objection; form.

13 A. I'm not the person filling the
14 prescriptions and giving them to the patients.

15 BY MR. LICHTER:

16 Q. But you oversee these pharmacies, right?

17 A. Yes.

18 Q. Does Albertsons provide you that sort of
19 information for any of the stores you oversee?

20 A. No.

21 MR. WAHBY: Objection to form to that
22 last question.

23 THE WITNESS: Sorry.

24 MR. LICHTER: Set this one aside.

25 I'll have the next document marked

1 Exhibit 7.

2 (Exhibit No. 7 marked.)

3 BY MR. LICHTER:

4 Q. Okay. I'll represent to you that this
5 chart we're looking at is a summary of the opioid
6 dispensing data that Albertsons produced for Store
7 4290 and dosage units created by Dr. Craig McCann in
8 this litigation.

9 And, again, a dosage unit is essentially
10 just a pill, correct?

11 A. Yes.

12 MR. WAHBY: Object. We object to the
13 use of this exhibit. It's not Bates labelled and
14 have no idea where it came from.

15 BY MR. LICHTER:

16 Q. Okay. And the top here indicates Store
17 4290 is located at 480 Northwest Parkway in Azle,
18 Texas; is that right?

19 A. Azle.

20 Q. Azle?

21 A. Yes.

22 Q. Excuse me.

23 A. It's okay.

24 Q. I'm from California.

25 A. I get you.

1 Q. Azle is in Tarrant County, correct?

2 A. Yes.

3 Q. Okay. And you oversee Store 4290?

4 A. Yes.

5 Q. Okay. Do you have any idea what the
6 population of Azle, Texas is?

7 A. No.

8 Q. Okay. I'll represent to you according to
9 the U.S. Census Bureau, the population of Azle,
10 Texas was 13,518 people in 2021. So that's about
11 14,000 people.

12 MR. WAHBY: Objection; form, move to
13 strike.

14 BY MR. LICHTER:

15 Q. And, again, it looks for every year since
16 2006 on this chart, with the exception of 2010 to
17 2011, Albertsons Store 4290 dispensed more opioid
18 pills into Azle than the actual number of people who
19 live there. Do you see that?

20 MR. WAHBY: Objection; form, assumes
21 facts not in evidence.

22 A. Yes.

23 BY MR. LICHTER:

24 Q. Okay. And, again, you don't have any of
25 the demographic or dispensing information to

1 determine if that level of dispensing is reasonable
2 in this area; is that right?

3 A. Correct.

4 Q. Okay. Looking at the year 2014, on this
5 chart, indicates Albertsons Store 4290 dispensed
6 194,539 dosage units into Azle. Do you see that?

7 A. Yes.

8 Q. And in a city of about 14,000 people, that
9 comes out to almost 14 pills that year for every
10 man, woman and child in Azle. Again, you don't --
11 Albertsons never provided you any information to
12 determine if that number would be reasonable; is
13 that right?

14 MR. WAHBY: Objection; form. Object
15 to the sidebar.

16 A. Correct.

17 BY MR. LICHTER:

18 Q. Okay. And over on the bottom left, it
19 indicates Store 4290 dispensed a grand total of
20 2,204,889 opioid dosage units into Azle between 2006
21 and 2021. Do you see that?

22 A. Yes.

23 Q. Okay. And in a city of about 14,000
24 people, that comes out to approximately 157 pills
25 over that time for every person in Azle.

1 MR. WAHBY: Objection; form. Object
2 to the sidebar. Move to strike.

3 BY MR. LICHTER:

4 Q. And, again, you don't have any demographic
5 dispensing information to determine whether or not
6 that's reasonable, correct?

7 A. Correct.

8 MR. LICHTER: Okay. Set this one
9 aside.

10 I'll have the next document marked as
11 Exhibit 8. Just one more of these charts.

12 (Exhibit No. 8 marked.)

13 BY MR. LICHTER:

14 Q. I'll represent to you that Exhibit 8 here
15 is a summary of the opioid dispensing data
16 Albertsons produced for Store 4150 in dosage units
17 created by Dr. Craig McCann in this litigation.

18 The top here indicates Store 4150 is
19 located at 6308 Lake Worth Boulevard in Lake Worth,
20 Texas. Does that sound correct?

21 A. Yes.

22 Q. Okay. And Lake Worth is in Tarrant County,
23 correct?

24 A. Yes.

25 Q. Okay. And you oversee Store 4150, correct?

1 A. Yes.

2 Q. Okay. And do you have any idea what the
3 population of Lake Worth, Texas is?

4 A. No.

5 Q. Okay. I'll represent to you that according
6 to the U.S. Census Bureau, the population of Lake
7 Worth, Texas was 4,674 people in 2021. So about
8 5,000 people.

9 MR. WAHBY: Objection form. Object to
10 the sidebar. Move to strike. And I object to the
11 use of this exhibit as it's not Bates labeled.

12 BY MR. LICHTER:

13 Q. First, like the other charts we just looked
14 at, for every year since 2006, with the exception of
15 2010 and 2011, it looks like Albertsons Store 4150
16 dispensed more opioid pills into Lake Worth than the
17 actual number of people that live there, correct?

18 MR. WAHBY: Objection; form.

19 A. Yes.

20 BY MR. LICHTER:

21 Q. Again, you don't know why there's any data
22 missing here from the years 2010 and 2011?

23 A. No.

24 Q. Looking at the year 2012 on this chart,
25 Store 4150 dispensed 194,346 dosage units into Lake

1 Worth. Do you see that?

2 A. Yes.

3 Q. Okay. In a city of about 5,000 people,
4 that comes out to almost 39 pills that year for
5 every man, woman and child in Lake Worth.

6 MR. WAHBY: Objection to the form.
7 Object to the sidebar.

8 BY MR. LICHTER:

9 Q. Okay. And, again, you don't have any data
10 or demographic information to determine whether or
11 not that's a reasonable amount to dispense into Lake
12 Worth, correct?

13 A. Correct.

14 Q. Okay. In the bottom left, it indicates
15 Albertsons Store 4150 dispensed a grand total of
16 1,905,832 opioid dosage units into Lake Worth
17 between 2006 and 2011. Do you see that?

18 A. Yes.

19 Q. Okay. And, again, Lake Worth, with about
20 5,000 people, that comes out to about 381 pills per
21 person during that time. And, again, you have no --
22 no data to help you determine whether or not that
23 number might be reasonable, correct?

24 A. Correct.

25 MR. WAHBY: Objection; form.

1 A. Correct.

2 BY MR. LICHTER:

3 Q. Based on these numbers that we're looking
4 at, do you think someone at Albertsons should have
5 been in charge of monitoring opioid dispensing
6 numbers like this to make sure things weren't
7 getting out of hand in Tarrant County?

8 MR. WAHBY: Objection; form.

9 A. No.

10 BY MR. LICHTER:

11 Q. No, you don't think someone should have
12 been monitoring?

13 MR. WAHBY: Objection; form.

14 A. No.

15 MR. LICHTER: Set this one aside.

16 I'll have the next document marked
17 Exhibit 9. For the record, this document is Bates
18 numbered ALB-NM00011005.

19 (Exhibit No. 9 marked.)

20 BY MR. LICHTER:

21 Q. Have you seen this document before?

22 A. No.

23 Q. I'll represent to you this document is an
24 internal Albertsons report dated January 24, 2020,
25 that discusses the controlled substance dispensing

1 of Albertsons Pharmacy 3914 located in Silver City,
2 New Mexico. Have you seen this report before?

3 A. No.

4 Q. I would like us to kind of take a look at a
5 few different parts of this report together,
6 starting at the bottom of the first page. It
7 identifies some prescription fill data for this
8 store as far as weekly prescriptions filled, what
9 percent are Schedule IIs compared to the company
10 average. Do you see that?

11 A. Yes.

12 Q. Okay. And below that it identifies the
13 number of stores in the state of New Mexico at 29,
14 and it identifies IQVIA controlled substance
15 dispensing ratings on -- and on the following page
16 includes a chart of how this store is rated using
17 the IQVIA data. Do you see that?

18 A. Okay. Yes.

19 Q. Do you know what IQVIA -- excuse me. Do
20 you know what IQVIA controlled substance dispensing
21 ratings are?

22 A. No.

23 Q. Okay. Have you ever seen a chart like this
24 before for any of the stores you oversee?

25 A. No.

1 Q. Okay. Have you ever heard of IQVIA?

2 A. No.

3 Q. Okay. Below that chart, it indicates -- it
4 says, "A review of all prescriptions dispensed from
5 10/19/19 to 1/20/2020 was performed and details
6 provided below."

7 Do you see that?

8 A. Yes.

9 Q. Okay. It then gives a section on overall
10 insights for that store based on its review of the
11 prescriptions dispensed. Do you see that?

12 A. Yes.

13 Q. Okay. And below that is a section titled
14 "Patients," which appears to identify specific
15 information for what looks like a few dozen
16 Albertsons patients at this store. Do you see that?

17 A. Yes.

18 Q. Okay. And flipping past the "Patient"
19 section, this is on the fourth page of the document,
20 there's a section titled "Prescribers." Do you see
21 that?

22 A. Okay. Yeah.

23 Q. And this appears to discuss top prescribers
24 by volume for CS prescriptions. Do you see that?

25 A. Yes.

1 Q. And it gives IQVIA ratings for each of the
2 prescribers broken down by different controlled
3 substance drugs. Do you see that on the following
4 page?

5 MR. WAHBY: Objection; form.

6 A. Yes.

7 BY MR. LICHTER:

8 Q. Okay. And following that section is a
9 section titled "Geography." Do you see that?

10 A. Yes.

11 Q. And that appears to discuss the Silver City
12 population and surrounding areas as it relates to
13 controlled substance dispensing at this store. Do
14 you see that?

15 A. Yes.

16 Q. Okay. It also includes a graphic map of
17 the state of New Mexico and locates Silver City
18 within there. Do you see that?

19 A. Yes.

20 Q. The following page, the last page of the
21 document, is a section titled "Store Action Plan."
22 This apparently identifies a plan of action for the
23 store to follow based on the above dispensing
24 review. Do you see that?

25 A. Yes.

1 Q. Have you ever seen a dispensing report like
2 this for any of the stores you oversee in Tarrant
3 County?

4 A. I don't remember seeing one for a Tarrant
5 County store, no.

6 Q. Have you ever seen a dispensing report like
7 this for any of the stores you oversee?

8 A. I don't remember that I saw this.

9 Q. Okay. So you don't recall seeing a report
10 like this for the stores we just looked at the
11 following charts -- or -- yeah, the following charts
12 from Saginaw, Azle and -- sorry, Azle, and Lake
13 Worth; is that right?

14 MR. WAHBY: Objection; form.

15 A. I don't remember seeing it for those.

16 BY MR. LICHTER:

17 Q. Okay. Has Albertsons ever provided you any
18 information like what we've seen in this report for
19 any of the stores you oversee in Tarrant?

20 A. Not that I remember.

21 Q. Okay. Do you know if Albertsons provides
22 any of this information that we're looking at
23 directly to its pharmacists?

24 A. I don't know.

25 Q. Okay. So as far as you know, no

1 information to you or to the pharmacists you oversee
2 regarding certain prescribers at the stores you
3 oversee?

4 MR. WAHBY: Objection; form.

5 A. Not -- not that I know.

6 BY MR. LICHTER:

7 Q. Okay. Same response as far as providing
8 information on dispensing trends of certain
9 patients?

10 MR. WAHBY: Objection; form.

11 A. Right.

12 BY MR. LICHTER:

13 Q. Okay. Were you ever given information from
14 Albertsons on dispensing trends for the store as a
15 whole?

16 MR. WAHBY: Objection; form.

17 A. Not that I remember.

18 BY MR. LICHTER:

19 Q. And no analytic information from IQVIA data
20 or anything like that?

21 A. Not that I remember.

22 MR. WAHBY: Objection; form.

23 A. Not that I remember.

24 BY MR. LICHTER:

25 Q. Okay. No information from Albertsons on

1 how the geography of your stores should or shouldn't
2 impact opioid dispensing?

3 MR. WAHBY: Objection; form.

4 A. No.

5 BY MR. LICHTER:

6 Q. If you had some of this information, do you
7 think it would put you in a better position to
8 prevent diversion at the stores you oversee?

9 MR. WAHBY: Objection; form.

10 A. Diversion?

11 BY MR. LICHTER:

12 Q. Prescription opioid pills leaving the
13 legitimate chain of purchase and going into the
14 illicit channels.

15 MR. WAHBY: Objection; form.

16 A. I don't know.

17 BY MR. LICHTER:

18 Q. Okay. Do you know how pharmacists' bonuses
19 are calculated in Tarrant County?

20 A. In -- in Albertsons/Tom Thumb?

21 Q. In Albertsons' pharmacies in Tarrant
22 County, yes.

23 A. How are they -- yes.

24 Q. Can you explain how they are calculated?

25 A. The pharmacist -- pharmacy manager is bonus

1 eligible. The pharmacy manager bonus is based on
2 the store's performance, the entire store's
3 performance.

4 Q. Would that include the dispensing volume of
5 the pharmacy?

6 A. No. It will -- it was based on if the
7 stores makes a -- makes their projected number on
8 sales and makes their projected number on earnings.

9 Q. So would the sales and earnings number
10 include prescription drugs?

11 A. Prescriptions filled in the -- in the
12 store --

13 Q. Right.

14 A. -- do contribute to the sales of the store,
15 yes.

16 Q. Okay. So the higher the volume of
17 prescription drugs dispensed, the higher the overall
18 earnings of the store would be, correct?

19 MR. WAHBY: Objection; form.

20 A. Yes.

21 BY MR. LICHTER:

22 Q. Okay. Do you know if controlled
23 substances, or opioids in particular, were ever
24 excluded from that bonus calculation?

25 A. No.

1 Q. You don't know or they haven't been?

2 A. Not that I know, that they have ever been
3 excluded from that.

4 Q. At a corporate level, do you know if
5 Albertsons has any corporate monitoring programs for
6 Tarrant County regarding problematic doctors?

7 A. I don't know.

8 Q. Okay. What about for problematic patients?

9 A. I don't know.

10 Q. What about for red flag prescriptions?

11 A. I don't know.

12 Q. What about for -- well, strike that.

13 MR. LICHTER: I believe that's all the
14 questions I have for now. We can -- yeah, I'm fine
15 to pass the witness to you if you would like --

16 MR. WAHBY: Great.

17 MR. LICHTER: -- to ask further
18 questions.

19 MR. WAHBY: We'll reserve our
20 questions until the time of trial.

21 THE VIDEOGRAPHER: The time is
22 12:54 p.m., and we are off the record.

23 (Deposition concluded at 12:54 p.m.)
24
25

1 CHANGES AND SIGNATURE

2 DONALD BOWMAN JULY 18, 2023

3 Reason Codes: (1) to clarify the record; (2) to
4 conform to the facts; (3) to correct a transcription
5 error; (4) other (please explain).

6	PAGE	LINE	CHANGE	REASON
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SIGNATURE

I, DONALD BOWMAN, have read the
foregoing deposition, or have had it read to me, and
hereby affix my signature that same is true and
correct, except as noted above.

DONALD BOWMAN

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE: NATIONAL PRESCRIPTION *
5 OPIATE LITIGATION *
6 * MDL NO. 2804
7 THIS DOCUMENT RELATES TO * CASE NO. 1:17-MD-2804
8 *
9 TRACK NINE *

10 REPORTER'S CERTIFICATION
11 DEPOSITION OF DONALD BOWMAN
12 JULY 18, 2023

13 I, CHRISTY R. SIEVERT, CSR, RPR, in
14 and for the State of Texas, hereby certify to the
15 following:

16 That the witness, DONALD BOWMAN, was duly
17 sworn by the officer and that the transcript of the
18 oral deposition is a true record of the testimony
19 given by the witness;

20 I further certify that the signature of
21 the deponent was requested by the deponent or a
22 party and is to be returned within 30 days from date
23 of receipt of the transcript. If returned, the
24 attached Changes and Signature Page contains any
25 changes and the reasons therefor;

26 I further certify that I am neither
27 counsel for, related to, nor employed by any of the
28 parties or attorneys in the action in which this
29 proceeding was taken, and further that I am not

1 financially or otherwise interested in the outcome
2 of the action.

3 Subscribed and sworn to on this the 4th
4 day of August, 2023.

5

6

7

8 CHRISTY R. SIEVERT, CSR, RPR
9 Texas CSR 8172
 Expiration Date: 4-30-2025

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